

**Testimony of Miranda Brown**  
**“Establishing Accountability at the World Intellectual Property**  
**Organization: Illicit Technology Transfers, Whistleblowing, and Reform”**  
**U.S. House of Representatives Committee on Foreign Affairs**  
**February 24, 2016**

Good afternoon Chairman Royce, Ranking Member Engel, and Members of the Committee. Thank you for inviting me to address you today. My name is Miranda Brown. I am a dual Australian and British national, and a former Australian Government official. I joined the Australian Department of Foreign Affairs and Trade (DFAT) in 2001 and occupied a number of positions in the Department before being appointed as the Deputy Permanent Representative at the Australian Mission to the United Nations in Geneva, in January 2008. I hold a PhD in Science and a Masters of International Law.

I must inform the Committee at the outset, that as a former Australian Government official, I am bound by certain confidentiality obligations towards the Australian Government. I have informed the Australian Foreign Minister about my presence at the hearing today.

As the Australian Deputy Permanent Representative in Geneva, I worked closely with Mr Gurry, in support of his election campaign for Director General, from my arrival in Geneva in January 2008 until his election as Director General by the WIPO Coordination Committee in May 2008 and the subsequent confirmation by the WIPO General Assemblies in September 2008.

I joined WIPO as the Strategic Adviser to the Director General of WIPO in July 2011, on leave of absence (Leave without Pay) from the Australian Government. I occupied this position until November 2012.

I was appointed as Strategic Adviser to the Director General through a standard WIPO recruitment process. In this senior-level adviser position, I reported directly to Mr Gurry and provided him with advice on all aspects of WIPO's Strategic Plan. I worked closely with Members of WIPO's Senior Management Team, which included Mr James Pooley and Mr Geoffrey Oneyama, now the Foreign Minister of Nigeria. I met with Mr Gurry on most days and often attended meetings with him, providing him with strategic advice on all aspects of WIPO's work and in particular its engagement with Member States. My job soon evolved to be primarily a trouble-shooter, tasked with resolving problems both internally and with the Member States. Throughout this time at WIPO I worked closely with Mr Pooley and regularly turned to him for advice on how to manage the increasingly difficult situation I faced working with Mr Gurry.

I have consistently maintained close relations with the US Mission in Geneva, built on the foundations I formed during my time as the Deputy Permanent Representative of the Australian Mission to the UN. As you know, the US and Australian Governments enjoy the closest of relations.

My testimony will focus on what happened following my report to the US Government of WIPO's shipment of computers to North Korea, my cooperation with this Committee in 2012, and subsequent retaliation against me as a whistleblower, as well as providing information to the Committee on what I believe is an ongoing pattern of abuse of authority and impunity by Mr Gurry.

On 14 March 2012, I received a phone call from a WIPO staff member working in the Procurement area who informed me that "there was a problem with a payment for a shipment of computers to North Korea". At first I thought this was a joke, but I soon realized that the staff member was serious, as he explained that the US Office of Foreign Assets Control (OFAC) had blocked the WIPO/UNDP payment by the Bank of America, for the computers. At that stage it was not yet clear whether the computers had already been shipped to North

Korea and I decided to immediately try to stop the transfer. I called Mr Gurry and counseled him against WIPO engaging in any project with North Korea without the prior approval of the Member States of WIPO (specifically including the US) and without clearance by the UN Security Council Sanctions Committee. I informed him that OFAC had blocked the payment for the equipment. I expressed strong concerns about the potential for the project to violate US domestic and UN Security Council sanctions. Mr Gurry's response was profoundly disturbing: he said that "North Korea is a WIPO Member State like any other and it deserves technical cooperation"; he also said that "WIPO is not bound by US domestic or UN Security Council sanctions". I advised him to immediately stop the project. Mr Gurry was non-committal. He told me to go and fix the payment problem.

I returned to my office and immediately called the US Mission in Geneva to report the situation to US Government officials. I was confident that this was necessary, and that the US Government urgently needed to know. I explained to US officials at the Mission that I had strongly advocated that Mr Gurry stop the project and halt all shipments to North Korea. Later that day, I forwarded the email chain on the OFAC decision to the US Mission (at Attachment A). The following day I obtained from the Project Director, Mr William Meredith (a national of New Zealand), the project document (Attachment B), the list of equipment which had been shipped to North Korea (Attachment C) and the authorization memo, signed by Mr Gurry (Attachment D). It became clear from these documents that the sophisticated IT equipment, which was American origin and which included high-end servers and firewalls, had already been transferred to Pyongyang. That afternoon, I provided the US Mission in Geneva, with all the documents relating to the project.

I met with the Project Director, Mr Meredith, whom I did not know well, and I tried to ascertain the reason why Mr Gurry had commissioned and approved the North Korea project, and why it had been kept secret from the Member States of WIPO.

The project had not been included as a line item in the WIPO budget, which is approved by Member States. Mr Meredith indicated that the project, including the shipment of computers, was one of North Korea's requests in exchange for North Korea's support for Mr Gurry's election as Director General. North Korea was a Member of WIPO's Coordination Committee at the time of Mr Gurry's election in May 2008. Mr Gurry had won by one vote against the runner-up, Brazilian candidate Mr Jose Graca Aranha.

Later I learnt that Mr Gurry had also approved a similar project with Iran, another member of the WIPO Coordination Committee at the time of Mr Gurry's election. This discovery I also reported to the US Mission in Geneva, providing them with the documents.

Shortly thereafter, your Committee launched an investigation into the shipments to North Korea and Iran. I was asked to testify before this Committee at a hearing in July 2012, but Mr Gurry refused to allow me to attend, or to cooperate with the Committee. Despite this, I provided this Committee with all relevant documents relating to the projects, and responded to requests from staffers for further materials and information.

I reported these shipments to the US Government, as I did subsequent further abuses of authority by Mr Gurry. Despite the fact that WIPO had no whistleblower policy in place at the time I blew the whistle on the North Korea and Iran shipments, I felt confident that the US Government would use its considerable influence to fully protect me. I felt I had a responsibility, as a UN staff member, to blow the whistle and report a UN agency that was supplying high-end American IT equipment to North Korea, in violation of US domestic sanctions and without consulting the UN Security Council Sanctions Committees. Up until 2012 there were no protected channels for whistleblowers disclosures, so I was obliged to use my own judgment about how to report misconduct most effectively.

The retaliation following my blowing the whistle on these shipments to the US Government was severe. Mr Gurry accused me of disloyalty and of leaking documents to the US Mission and to the media. An Ambassador from a Western Member State inquired about my situation, and Mr Gurry told him that he would be willing to offer me a plea bargain, whereby I would be exonerated from any investigation into the “leaks” in exchange for the names of those WIPO staff with whom I had shared the North Korea and Iran project documents. I am told that the list of names had already been drawn-up and included Mr Pooley, Mr Moncef Kateb (then the President of the WIPO Staff Council and subsequently fired by Mr Gurry for his staff representation and whistleblower activities), the staff member in the Procurement area and several other senior staff whom he considered disloyal and whom he apparently wanted to purge from WIPO. Mr Gurry told the Ambassador that if I signed the plea bargain, I would not be suspended or placed under investigation for the “leaks”. I was not prepared to sign such a plea bargain and thereby expose my colleagues to certain disciplinary sanctions. I had no option but to go on extended medical leave for stress. I hoped that the US and other Member States would intervene and talk Mr Gurry out of his retaliatory approach. In September 2012, at the end of my statutory medical leave, I returned to work, but Mr Gurry immediately resumed the retaliation against me.

In an apparent test of my loyalty to him, he ordered in writing that I work on another secret project, to establish WIPO external satellite offices, including in Beijing and Moscow, without the approval of the Member States. He expressly forbade me from talking with any Member State and insisted on total secrecy. I again informed the US Mission in Geneva and provided US officials with the documents, including the Memorandum of Understanding being negotiated with the Russian Federation. I learned later that Mr Gurry subsequently had WIPO secretly sign Memoranda of Understanding with both the Russian Federation and

China, without consulting all the Member States of WIPO, and in apparent violation of WIPO's Convention (framework treaty).

Further retaliatory action ensued: Mr Gurry had me removed from the Senior Management Team; I was excluded from meetings and subjected to ostracism; Mr Gurry told staff to avoid me or they could face "consequences". When I protested the secrecy of the external office project, Mr Gurry summoned me to his office and declared that he would not be renewing my contract, which was not due to expire for seven months, on the basis that I was disloyal and too close to the Member States and in particular the US, and that I had cooperated with this Committee.

I knew that if Mr Gurry decided not to renew my contract, it would take over three years of litigation in the International Labour Organization's Administrative Tribunal (ILOAT), before I would even be granted a hearing, as WIPO, like most international organizations is immune from national laws. During that period, I would not have a salary and would most likely not have been allowed by the Swiss Government to remain in Geneva, where my children are schooled in the Swiss public system. Given this, I had no option but to leave WIPO. I resigned under duress and took a lower level position in another UN organization at a significant pay cut and responsibility.

Throughout the period during which I experienced severe retaliation at WIPO, which lasted from March to November 2012, I remained in close contact with the US Mission in Geneva and also kept staffers from this Committee informed. The US Mission intervened several times to appeal to Mr Gurry to take a more constructive approach towards whistleblowers. This was to no avail.

International Organizations must balance the need for confidentiality with transparency. There is no Freedom of Information Access and Member States must rely on the integrity and good faith of the UN agency head, in the case of

WIPO, the Director General, to run the organization in an open and transparent manner, with the Member States being consulted on all aspects of the organization's work.

Mr Gurry's leadership of WIPO is characterized by secrecy and also an extraordinary vindictiveness towards whistleblowers. He apparently sees the organization and its resources as his personal fiefdom, and he expects staff to demonstrate their absolute loyalty towards him and not the organization and its mandate. The fact that staff at WIPO sign an oath of allegiance to the organization — and not to the Director General — appears to be lost on Mr Gurry.

The adoption of the WIPO whistleblower policy in November 2012 was a positive development, however, its implementation has failed under Mr Gurry's regime. More generally, UN whistleblower protections fail where the allegations of wrongdoing involve the UN agency head. At WIPO, the Chief Ethics Officer, who is supposed to consider claims of retaliation, reports directly to the Director General. The Director of the Internal Oversight Division, which is charged with examining claims of misconduct, reports directly to the Director General as well and serves at his pleasure.

Mr Gurry has consistently undermined the internal accountability mechanisms at WIPO. He apparently placed the Director of Internal Investigations, Mr Thierry Rajaobelina, under investigation for spurious reasons. Mr Rajaobelina subsequently resigned abruptly from his position at WIPO and now works at UNRWA. Mr Gurry attempted to suppress the report of the Ombudsperson, and frequently undermined the work of Mr Avarad Bishop, the Chief Ethics Officer, who reported Mr Gurry's abuses of authority to me on numerous occasions. Mr Bishop's tragic suicide should be investigated in my opinion.

Mr Gurry's relentless pursuit of the WIPO Staff Council, and in particular its President, Mr Moncef Kateb (a national of Algeria), stands out as most egregious.

Prior to his election as President of the Staff Council, Mr Kateb worked as a senior staff member in the WIPO Copyright Division, and, before that, as the Head of the Algerian Copyright Office. As Staff Council President, Mr Kateb publicly blew the whistle on the shipments to North Korea. He also reported allegations of election vote-buying by Mr Gurry and other abuses of authority. In response to Mr Kateb's actions, Mr Gurry stated at a WIPO Staff Town Hall meeting that Mr Kateb's assertions were a "low blow" and "would not go without consequences". In September 2014, a few days before Mr Kateb was to deliver a statement to the Member States of WIPO's Coordination Committee, Mr Gurry made good on his threat and fired Mr Kateb, ostensibly on the basis of a conflict of interest during his intervention in support of a staff member. These actions were condemned by unions worldwide.

I witnessed frequent abuses of authority by Mr Gurry. This included denigrating WIPO staff and government officials, both orally and in writing, as well as misleading Member States. I included written evidence of these abuses in a complaint I filed with the ILOAT and requested an external investigation. Prior to his election as Director General, Mr Gurry made all sorts of allegations against his predecessor Mr Kamil Idris (a national of Sudan), including relating to the corruption of the construction of a new WIPO building (the New Construction Project). These allegations turned out not to be true (outright lies). An independent investigation into the New Construction Project was undertaken by two investigators, Mr Marler (a barrister from the UK) and Mr Kramer (an American investigator). Mr Gurry suppressed the report of the investigation and refused to release it to the Member States. Written correspondence with the investigators revealed that Mr Gurry apparently attempted, unsuccessfully, to have the investigators change their conclusion, namely that "it was unlikely that the New Construction Project had been subject to corrupt practices on the part of the Organisation". It is my belief and understanding that Mr Gurry retains the sole copy of the Marler report under lock and key. The Marler report should be released to Member States.

Prior to leaving WIPO in November 2012, I blew the whistle on what I strongly suspected was improper and possibly criminal behavior on Mr Gurry's part. This was also linked to his election as Director General. While preparing in 2007 to run for election, Mr Gurry was the target of several anonymous letters accusing him of financial improprieties and sexual harassment. In response Mr Gurry filed a complaint against "unknown persons" with the Swiss authorities. In February 2008, Mr Gurry asked that DNA and fingerprint samples be taken from WIPO staff in order to locate the perpetrators. That request was denied by the then Director General of WIPO, Mr Kamil Idris on the basis that immunity of those individuals would need to be lifted and there was insufficient grounds to do so. Believing that three senior WIPO staff were the most likely source of the anonymous letters, Mr Gurry apparently gave secret instructions to one of the WIPO security officers to enter their offices and take personal effects, such as lipsticks, dental floss and other personal items without their knowledge or consent. The personal effects were then handed to the Swiss police for DNA analysis. Later in May 2008, on the same day Mr Gurry was elected as the future Director General, he elicited a request from Switzerland to waive the immunity of eleven WIPO staff, including the three who had been victimized by the theft of personal effects, in order to have their DNA gathered directly – most likely to provide cover for the earlier illegal theft of DNA. Subsequent genetic testing exonerated all who had provided samples. One of the victims later requested the official file from the Swiss authorities; the hospital report within this file revealed evidence of theft of personal effects and DNA. I had obtained the documents and reported them to Director of WIPO's Internal Oversight Division and requested an independent investigation into Mr Gurry's role. I also provided the documents to Member States, including the US, and called for their intervention. My request for an independent investigation was denied, which is hardly surprising given that the Director of Internal Oversight Division reports to the Director General and serves at his pleasure, a typical systemic problem in UN organizations. In February 2014, I filed a complaint with the UN International Labour Organization Dispute Tribunal requesting that the Tribunal overturn the

decision not to allow an investigation into Mr Gurry's involvement in the theft of personal effects from WIPO staff and illicit extraction of their DNA, as well as other abuses of authority by Mr Gurry. Almost three years have passed and the Tribunal has yet to consider my request for an external investigation.

I provided Mr Pooley with all the documents relating to the theft of personal effects from WIPO staff and illicit extraction of their DNA. These formed one of the bases of Mr Pooley's Report of Misconduct which was submitted to the Chair of the WIPO General Assemblies in April 2014.

The allegations have now been independently investigated by the UN's Office of Internal Oversight Services (OIOS) and the investigation report transmitted to the Chair of the WIPO General Assemblies, Ambassador Gabriel Duque, of Colombia.

Disturbingly, and contrary to the advice of WIPO's Legal Counsel, Ambassador Duque has to-date been unwilling to share the conclusions of the OIOS report with all the Member States of WIPO. He has also been unwilling to brief me on the conclusions of the investigation even though I have the right to be briefed under WIPO rules, as the original source of the report. He has also refused to consult Member States on the requests for reinstatement at WIPO by myself, and Mr Kateb. Our letter sent to him in October 2015 remains unanswered (Attachment E).

The OIOS investigation report reportedly contains adverse findings against Mr Gurry. The situation inside WIPO is deteriorating rapidly. Mr Gurry has ordered that the Staff Council, which blows the whistle on his actions, be replaced by another association of his own choosing. This is in violation of staff rights to freedom of expression and association. He apparently recently suppressed the conclusions of an external investigation report which concluded there had been fraud committed by a serving Deputy Director General and instead of instituting

disciplinary proceedings against her, he provided her with a lucrative separation package. There are reports that he has recently ordered the shredding of documents, which could constitute further evidence of wrongdoing.

Finally, I would like to emphasize that my motive for reporting the allegations of wrongdoing at WIPO, both previously and now, is to protect the organization. This has come at a considerable personal sacrifice.

In terms of reforms at WIPO, I respectfully request the Committee consider the following.

In the immediate term:

- 1) Firstly, that this Committee call for Mr Gurry's removal from office and recommend to the State Department that it pursue the removal swiftly and demand accountability. Clearly there is sufficient evidence now that Mr Gurry's leadership is corrupt, dangerous for the organization and that he has himself engaged in wrongdoing, possibly of a criminal nature. His actions are inimical to US interests and his ongoing tenure as Director General risks further damaging not only WIPO but the UN's reputation.
  
- 2) Secondly, that this Committee demand that the whistleblowers be immediately reinstated at WIPO and be provided with appropriate compensation. The current Chair of the WIPO General Assemblies could request the assistance of the Legal Counsel of WIPO in drawing up agreements for the return of Mr Kateb and myself to WIPO. Our cases are well-known and if they are not resolved promptly, they will sadly act as a very strong deterrent to other UN staff considering blowing the whistle on wrongdoing by a UN agency head.

In the longer term:

- 3) Ensure that allegations of wrongdoing by UN agency heads are promptly and independently examined, and when misconduct is confirmed, a mechanism for swift redress exists.
- 4) Seek the amendment of all UN frameworks for the Administration of Justice to ensure that whistleblowers have access to external arbitration, consistent with the provisions of the US Consolidated Appeals Act 2015; such access does not generally exist at WIPO specifically, or within the UN generally.
- 5) Institute special protection measures for whistleblowers who report allegations of wrongdoing by UN agency heads. Whistleblowers may be vulnerable to retaliation across the UN system (not just in the organization where they blew the whistle) and for the duration of their career. Because of the political linkages at the top of the organizations, UN whistleblowers can be subject to retaliation, in another UN organization, many years later. Moreover the nature of immunity of international organizations can breed impunity at the highest levels.
- 6) Ensure that the next Director General of WIPO and UN Secretary General understand the importance of whistleblower protection and commit to protecting whistleblowers from retaliation. This is especially important given the lack of Freedom of Information Access at the UN.

I thank this Committee for its ongoing engagement and look forward to working with the Committee and US Government to see that meaningful and effective reforms are instituted at WIPO.